

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. After amending the claims as set forth above, claims 12-32 remain pending in this application, and are submitted for reconsideration.

Rejection of claims 12-16, 19, 21-28, and 31 based on Cikanek, Ambros, and Kustarev

Claims 12-16, 19, 21-28, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,269,143 (“Cikanek”) in view of U.S. Patent 6,619,379 (“Ambros”) and further in view of SU 1546683 (“Kustarev”). This rejection is traversed for at least the following reasons.

Claim 12 (as amended) recites “a third cooler, wherein the third cooler is a low-temperature cooler configured such that low-temperature coolant from the first cooler flows through the low-temperature cooler, wherein the high-pressure charge air/air cooler is arranged alongside the low-temperature cooler and, seen in a direction of air flow of cooling air, upstream of a main coolant cooler.” Cikanek does not teach or suggest this combination of features. In particular, Cikanek merely teaches a first intercooler 18, a second intercooler 24 in front of a fan of the engine 30, and a condenser 56. The PTO apparently considers the first intercooler 18 as the first cooler of claim 12 and the second intercooler 24 as the second cooler of claim 12. However, the PTO is not consistent as to what is considered to be the third cooler, which is a low-temperature cooler. On page 3 of the Office Action, the first intercooler 18 is considered to be the low-temperature cooler while, on page 4 of the Office Action, the condenser 56 is considered to be the low-temperature cooler. Because the low-temperature cooler is the third cooler, it is assumed by the Applicant that the PTO either considers the first intercooler 18 or the condenser 56 to be the third cooler. Regardless, the rejection is improper because neither the first intercooler 18 nor the condenser 56 can be considered to be the third cooler.

As to the first intercooler 18, this intercooler 18 cannot be considered to be the third cooler of claim 12 because the PTO has already indicated that the intercooler 18 is the first cooler of claim 12. The first and third coolers are two distinct and separate elements, and it is improper to use the single intercooler 18 to satisfy the requirements of two coolers, i.e., the

first and third cooler. Because the intercooler 18 cannot be considered to be the first and third coolers, this interpretation (and hence the rejection) is improper.

As to the condenser 56, claim 12 (as amended) requires that the third cooler is configured such that low-temperature coolant from the first cooler flows through the low-temperature cooler. The condenser 56 of Cikanek, however, does not have its refrigerant flow from the intercooler 18 or the intercooler 24. As a result, the condenser 56 cannot also be the third cooler because the condenser does not have a low-temperature coolant from the first or second intercooler flow through it, thus not all the features of claim 12 are present in Cikanek.

Because neither the condenser 56 nor the first intercooler 18 can be considered to be the third cooler configured such that low-temperature coolant from the first cooler flows through the third cooler and Cikanek does not teach any other structure suitable to be the third cooler of claim 12, Cikanek does not teach or suggest all the features of claim 12. Ambros and Kustarev do not cure this deficiency because neither of these reference teaches or suggests a third cooler configured such that low-temperature coolant from the first cooler flows through the third cooler. Thus, no combination of Cikanek, Ambros, and Kustarev teaches or suggests all the features of claim 12.

Claim 19 recites “a third cooler, wherein the third cooler and the second cooler form a cooling module, wherein a front face of the third cooler takes up 20% to 50% of a total front surface of the cooling module.” There is no teaching or suggestion from any combination of Cikanek, Ambros, and Kustarev that teaches or suggests this feature of the third cooler. The PTO asserts that “the front face of the low-temperature cooler taking up 20% to 50% of a total front surface of the cooling module” is considered to be functional language, and the Cickanek system is capable of performing the same desired functions.” (Page 5 of the Office Action.) This rejection is improper because the enumerated percentage range is a physical dimension of the third cooler that defines the third cooler in structural terms, and does not merely state what the cooler does. Accordingly, for a proper rejection, the structural limitation of the enumerated percentage range of the third cooler must be found in the prior art. Because no prior art has been set forth that teaches or suggests “a third cooler, wherein the third cooler and the second cooler form a cooling module, wherein a front face of the third cooler takes up 20% to 50% of a total front surface of the cooling module,” claim 19 is not rendered unpatentable over the prior art.

Claim 24 (as amended) recites “a third cooler that receives coolant from the low-pressure charge air/coolant cooler.” As previously mentioned, no combination of Cikanek, Ambros, and Kustarev teaches or suggests such a third cooler. Thus, claim 24 is not rendered unpatentable over the prior art.

Claim 31 (as amended) recites “wherein coolant from the low-pressure charge air/coolant cooler flows into a coolant/air cooler.” No combination of Cikanek, Ambros, and Kustarev teaches or suggests such a coolant/air cooler. Thus, claim 24 is not rendered unpatentable over the prior art.

Claims 13-16, 21-23, and 25-28 depend from and contain all the features of claim 12, claim 19, or claim 24, and are allowable for the same reasons above without regard to the further patentable features contained therein.

For at least these reasons, favorable reconsideration of the rejection is respectfully requested.

Rejection of claims 17-18, 20, and 29-30 based on Cikanek, Ambros, Kustarev, and Edmaier

Claims 17-18, 20, and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cikanek, Ambros, and Kustarev in view of U.S. Patent 5,394,854 (“Edmaier”). Claims 17-18, 20, and 29-30 depend from and contain all the features of claim 12, claim 19, or claim 24. As previously mentioned, no combination of Cikanek, Ambros, and Kustarev teaches or suggests the third cooler of claim 12, the third cooler of claim 19, or the third cooler of claim 24. Edmaier does not cure these deficiencies. Thus, no combination of Cikanek, Ambros, Kustarev, and Edmaier teaches or suggests all the features of claim 12, claim 19, claim 24, or any of their respective claims. Thus, claims 17-18, 20, and 29-30 are allowable for at least these reasons, without regard to the further patentable features contained therein. For at least these reasons, favorable reconsideration of the rejection is respectfully requested.

Rejection of claim 32 based on Cikanek, Ambros, Kustarev, and Melchior

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cikanek, Ambros, and Kustarev, and in view of U.S. Patent 4,485,624 (“Melchior”). Claim 32 depends from and contains all the features of claim 31. As previously mentioned, no combination of Cikanek, Ambros, and Kustarev teaches or suggests the coolant/air cooler of claim 31. Melchior does not cure this deficiency. Thus, any combination of Cikanek,

Ambros, Kustarev, and Melchior does not teach or suggest all the features of claim 31 or its dependent claim. For at least these reasons, favorable reconsideration of the rejection is respectfully requested.

Conclusion

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By Matthew J. Kremer

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5414
Facsimile: (202) 672-5399

Richard L. Schwaab
Registration No. 25,479

Matthew J. Kremer
Registration No. 58,671